THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 11th August, 2006

W.P.No.17186 of 2005

Between:

Sri Ravuru Nagaraju … Petitioner

and

The State of Andhra Pradesh,
represented by the Revenue Divisional
Officer, Gudur, Nellore District and
another … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.17186 of 2005

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of the 1st respondent in prescribing the minimum qualification as X Class for being appointed as a fair price shop dealer of Puderu village as arbitrary, illegal and opposed to the principles of natural justice and consequently to direct the respondents to consider the case of the petitioner for appointment as fair price shop dealer on compassionate basis.

It appears that the petitioner's father was a fair price shop dealer of Puderu village, Naidupeta Mandal, Gudur Division of Nellore district. On the death of his father, the petitioner was appointed as a temporary dealer with effect from 18-5-2005. While so, a notification dated 7-7-2005 was published in the newspaper inviting applications from the eligible candidates with minimum X Class pass for granting authorization on permanent basis for the said fair price shop. Aggrieved by the same, the present Writ Petition is filed.

It is the case of the petitioner that fixing the minimum educational qualification as a pass in X Class itself is irrational. In fact, no educational qualification is required for being appointed as a fair price shop dealer. Further, when his father, who was a fair price shop dealer for a long time died, automatically he is entitled to hold the dealership. Therefore, the impugned notification is bad in law.

Per contra, learned Government Pleader for Civil Supplies

strenuously contended that the notification dated 7-7-2005 issued by the 1st respondent is in accordance with the guidelines issued by the Government in G.O.Ms.No.53, Consumer Affairs, Food and Civil Supplies (CS.I) Department, dated 6-10-2003. Clause 5 of the said guidelines reads as under:

> "**5. MINIMUM GENERAL EDUCATIONAL QUALIFICATIONS:-**
>
> 5.1 A pass in 10th class shall be the minimum general educational qualification required for appointment as fair price shop dealers;
>
> (a) Persons possessing the minimum general educational qualifications and the persons having higher qualifications, if applied, shall be treated equally for the purpose of appointment; and
>
> (b) Where no candidate is available with the said minimum general educational qualifications, a candidate possessing a lesser educational qualifications which shall not be less than a pass in 5th Class, if applies, may be considered for appointment."

In view of the above, it cannot be said that the minimum general educational qualification as a pass in X Class for being appointed as a fair price shop dealer, is either arbitrary or illegal. A fair price shop dealer is supposed to know 'read and write' for the purpose of maintaining the accounts and making entries in the ration cards. Therefore, fixing the minimum educational qualification as a pass in X Class is neither irrational nor arbitrary.

Be that as it may, the very notification issued by the 1st respondent is defective. The above clause 5.1 contemplates that the general educational qualification required for being appointed as a fair price shop dealer is a pass in X Class; but sub-clause (b) of Clause 5.1 says that where no candidate is available with the said minimum

general educational qualification, a candidate possessing a lesser educational qualification, which shall not be less than a pass in V Class, if applies, may be considered for appointment. Once this is so, unless and until the general qualification, as noticed above, in its totality is published for information of the public while inviting applications, the impugned notification cannot be said to be either valid or proper. In a given case, there may not be a person, who has passed X Class. May be, one has studied upto X Class; however, has not passed X Class and he cannot apply according to the impugned notification. But that seems to be not the purport of the general educational qualification as per the guidelines noted above. In a case where a candidate with pass in X Class is not available, the other candidates, who studied upto X Class or passed V Class can be considered.

In view of the above, the impugned notification is liable to be set aside and is accordingly set aside. However, till a valid notification is issued and a permanent dealer is appointed, the petitioner shall be permitted to run the shop. Petitioner is also at liberty to apply in pursuance of the notification that may be issued afresh and compete with others.

Learned counsel for the petitioner further stated that in Gudur Division, there are number of vacancies unfilled against Scheduled Caste category, but the 1st respondent has not considered as to reserving this vacancy for Scheduled Caste category, though the subject shop was held by a Scheduled Caste person earlier. Therefore, the 1st respondent is also directed to consider for reserving the fair price shop dealership of Puderu village against Scheduled Caste category, if there are unfilled Scheduled Caste category vacancies available in Gudur Division.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

11-8-2006

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